

Exhibit 39

Page 1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEW JERSEY

3 CIVIL ACTION NO. 2:16-cv-06576

4 -----x

5 INDUSTRIA DE ALIMENTOS ZENU S.A.S.,

6 Plaintiff,

7 -against-

8 LATINFOOD U.S. CORP. d/b/a ZENU

9 PRODUCTS CO. and WILSON ZULUAGA,

10 Defendant/Counter Plaintiff,

11 -----x

12 LATINFOOD U.S. CORP. d/b/a ZENU

13 PRODUCTS CO.,

14 Defendant/Counter Plaintiff,

15 -against-

16 INDUSTRIA DE ALIMENTOS ZENU S.A.S. and

17 CORDIALSA, USA, INC.,

18 Counter Defendants.

19 -----x

20 April 11, 2019

21 10:10 a.m.

22
23 Confidential Deposition of LUIS SALAZAR

24

25

L. Salazar

Q. And what about after 2012?

A. I was named manager of marketing.

Q. Is that your current position?

A. In 2015 they gave me marketing, sales investigation, development investigations, development.

Q. Did you have the same title at Industria since 2012?

A. 2012 I was manager of marketing, commercial manager.

Q. When did you become commercial manager?

A. 2015.

Q. And is that your current title?

A. Yes.

Q. What are your job responsibilities as commercial manager?

A. Sales responsibilities, marketing and research development.

Q. What is the business address of the company?

A. We have many locations in Columbia.

Q. What is your location?

A. I have many offices. I have to look

1 L. Salazar

2 at one of their offices.

3 Q. You move around from different offices
4 there?

5 A. And different cities.

6 Q. Are you personally involved in all
7 aspects of the marketing and sales of Zenu
8 Ranchera branded products in Columbia?

9 A. Yes, sir.

10 Q. Anywhere else?

11 A. At this moment the company is in
12 Columbia. I am the one responsible.

16 Q. But are the Ranchera Zenu products
17 just marketed in Columbia?

18 A. Today marketed the products are there.
19 Marketed the brand is registered in other
20 companies

21 Q. T am talking about sales.

22 MR. RAYMOND: What is your question
23 about sales?

24 Q. Are your sales and marketing strictly
25 limited to the Columbian market in Columbia?

L. Salazar

MR. RAYMOND: I am going to object to the form.

Can you break that into two because it is two different questions sales and marketing?

Q. Is your marketing of Zenu and Ranchera brand products limited to the country of Columbia?

A. No. We have -- marketing we do it for different international channels of television and digital.

Q. Is the Zenu and Ranchera brand goods only sold in Columbia?

A. Now yes.

Q. Has it always been sold -- strike
that

Have the Ranchera and Zenu brand goods to date only been sold in Columbia?

A. Today only sales in Columbia.

Q. So you have never -- is it true that Industria has never sold Zenu and Ranchera branded goods outside of Columbia?

A. Industria haven't sold out of Columbia

Q How about Nutresa?

L. Salazar

THE WITNESS: I don't know.

A. I don't know.

Q. Do you speak English?

A. Very little.

Q. Do you understand English?

A. More or less.

Q. Do you understand the questions that I am asking in English without translation?

A. Not completely.

Q. Do your duties as commercial manager require international travel?

A. Yes. We have operations in three countries with different brands.

Q. Which countries?

A. Panama, Venezuela and Columbia.

Q. Not the US?

A. Not now.

Q. Have you been to the US before?

A. Yes.

Q. How many times?

A. I don't recall. With the family many times.

Q. On vacation?

A. Yes.

L. Salazar

Q. Is this your first time here for business?

A. Yes.

Q. When was the first time you came to the US on personal travel?

MR. RAYMOND: Is there some relevance
is to this lawsuit?

Q. Answer the question.

A. I don't recall exactly 1995, 1996.

Q. What type of company is Industria?

MR. RAYMOND: Object to the form.

You mean the corporate structure?

do you mean by that?

What do you mean by that?

MR. INGBER: I will rephrase that.

BY MR. INGBER:

Q. What type of business is Industria; is it a meat producer?

A. It is in the food business. Meats is one of the most important and also it produces vegetables, cans and frozen dishes, meat.

MR. INGBER: I need a moment.

(Recess taken.)

MR. INGBER: I am sorry Mr. Salazar.

I am sorry that we are having this little

L. Salazar

mixup. It has nothing to do with you. I appreciate you and your time and your courtesy and we are trying to get you in and out as quickly as possible.

THE WITNESS: Perfect.

BY MR. INGBER:

Q. Are you an officer at Industria?

A. Don't understand.

What is an officer?

Q. Are you a president or a vice-president or a secretary of the company?

A. I am the commercial manager.

Q. Do you sign documents on behalf of Industria?

A. Yes.

Q. Who is the president of the meat business at Industria?

A. Diego Medina.

Q. How long has he been at Industria?

A. Many years but I don't know exactly.

Q. Before you started working at Industria?

A. No.

Q. Is he your boss?

L. Salazar

A. Yes.

Q. Who is the director of Industrial supply chain?

A. Santiago Jimenez.

Q. Is he your boss too?

A. No.

Q. Who do you report to at Industria?

A. Diego Medina.

10 Q. Do you have a planning manager at
11 Industria?

12 A. There is a planning manager at
13 Industria.

Q. Who is that?

A. Mateo Betancur.

16 Q. Do you have a person at Industria that
17 is in charge of branding, like trademark branding?

(Record read.)

21 A. There are different bosses for the
22 brand.

THE WITNESS: Different brands.

24 Q. Who is in charge of branding at
25 Industria in connection with Zenu and Ranchera?

L. Salazar

A. I am the boss of the two and I have people that help me with them.

Q. So you Mr. Salazar are in charge of branding of Zenu and Ranchera products for Industria; is that correct?

A. I am the one responsible for Zenu and Ranchera and other brands at Industria, the meats.

Q. How about the beans?

A. Zenu brand they also are my responsibility.

Q. What products are sold under the Zenu brand in Columbia?

A. Meat products, canned vegetables, frozen dishes.

Q. Did you say frozen what?

A. Frozen dishes.

Q. How long have you been in charge of branding of the Zenu and Ranchera products for Industria?

A. Since 2013.

Q. Did you take over from somebody else?

A. Yes.

Q. Who was that?

A. Matias Gaviria.

L. Salazar

Q. Mateo Betancur?

A. No.

Q. Could you spell that?

A. M-A-T-I-A-S G-A-V-I-R-I-A.

Q. Is he still with Industria?

A. No.

Q. Is he still with Nutresa?

A. No.

Q. He doesn't work for the company

anymore?

A. Doesn't work for the company anymore.

Q. Do you know where he is now?

A. I don't know.

Q. Do you know if he is retired?

A. Don't know.

Q. Are you familiar with the history of the Zenu Ranchera branded goods?

A. Yes.

Q. How long have those branded goods been sold in Columbia?

A. Zenu sold for more than 60 years.

Ranchera more than 30?

Q. Do you know where the Zenu and

Ranchera branded products are manufactured?

L. Salazar

A. The majority in Columbia. Some of them in the United States and others in Spain.

Q. Have you ever been to any of the US manufacturing plants for the Zenu and Ranchera branded goods?

A. No.

Q. How about in Spain?

A. No.

Q. How about in Columbia?

A. Yes.

MR. INGBER: Please mark as LS Exhibit B, it is the amended complaint and jury demand in this case dated April 21, 2017.

(LS Exhibit B, amended complaint and jury demand in this case dated April 21, 2017, marked for identification, as of this date.)

Q. Are you familiar with this document?

A. Yes.

Q. Do you know what this document is?

A. I know the general topics.

Q. What do you understand this to be?

A. The document from the lawsuit, from the court.

L. Salazar

Q. When did you become aware of this lawsuit?

A. This one in particular? Can you make me understand the question better?

Q. This one in particular.

A. The exact date? I don't know. I know that would be in this process for several years.

Q. When did you first become aware of a dispute with Latinfood?

A. We found out about the assistance of Latinfoods through the complaint of the person who was selling the products in Miami.

Q. We will get to that.

Are you familiar with the preservation of a policy for the preservation of documents for a litigation?

MR. RAYMOND: Object to the form.

A. Should I answer?

Q. Sure.

A. Yes.

Q. So have you been as representative of Industria maintaining the records of the company since the beginning of this dispute?

MR. RAYMOND: I object to the form.

L. Salazar

You can answer.

A. The documents are preserved.

Q. Are you the person at Industria that's responsible for the preservation of documents in this lawsuit?

MR. RAYMOND: I object to the form. I don't know what you mean by responsible for preservation.

Q. Are you the custodian at Industria responsible for the preservation of documents in this case?

MR. RAYMOND: Again, I object to the form.

What do you mean by custodian; does he personally hold the documents?

Q. Do you understand? Can you answer the question?

A. The documents are stored in safe places by the company. I am not the one who save them.

Q. That's what I want to know.

Who is the one at Industria that is responsible for saving the documents?

MR. RAYMOND: Object to the form. He

L. Salazar

about that.

MR. RAYMOND: He testified about it at twice in the last half an hour.

BY MR. INGBER:

6 Q. So are you saying that -- your
7 attorney has just stated that and maybe I missed
8 this previously, that Industria became aware of
9 Latinfood's use of the Zenu brand product prior to
10 October 2013; is that correct?

MR. RAYMOND: I didn't testify --

excuse me. I didn't testify to anything.

What I said is that he testified that

Gloria's report came in before October 2013
is what he said.

MR. INGBER: Okay.

BY MR. INGBER:

18 Q. So Gloria's report came in before
19 October of 2013; is that correct?

20 A. I have already said I do not remember
21 the date.

22 Q. I understand, but was it before
23 October of 2013?

24 A. I don't remember.

25 Q. In paragraph 64 it says that a

L. Salazar

supplier contacted Industria to alert it of Latinfood's activity.

Who was the supplier?

A. Marquillas.

Q. Marquillas is a supplier of Industria?

A. I do not work with the suppliers, no.

Q. Who works with the suppliers?

A. Santiago Jimenez.

Q. Do you know if Mr. Jimenez was alerted to Aquillas's complaint?

A. I don't know if he was alerted directly.

Q. Have you ever spoken to Mr. Jimenez about what happened with Marquillas?

A. We have talked directly to our attorneys.

Q. Did you speak with Mr. Jimenez about this personally?

A. No.

MR. RAYMOND: Mark, just to clarify one point, I was just handed a note saying that in an e-mail that we sent you on January 28 of this year we notified you we had researched it and determined that

L. Salazar

2 Gloria's report was made on September 11,
3 2014.

4 Q. Do you know if there is a report by
5 Marquillas?

6 A. I know the information that was
7 provided to the attorneys.

8 Q. Is it accurate to say that then
9 looking at paragraph 64 in the complaint that
10 Industria was unaware of Latinfood's use of the
11 Zenu mark in the US until in or around October
12 2013 when Marquillas contacted Industria?

13 A. I am not very clear on what the
14 question is.

15 MR. INGBER: Could you repeat the
16 question?

17 (Record read.)

18 A. I did not know before. I did not
19 know

Q But Industria knew; is that correct?

21 MR. RAYMOND: I am sorry.

22 Industria knew what?

23 Q. Industria became aware of Latinfood's
24 use of the Zenu mark in the US in October of 2013
25 when Marquillas contacted Industria to inform them

1 L. Salazar

2 A. No.

3 Q. Are you aware that Industria as of
4 today has a registration for Zenu in the US?

5 A. Everything is in our attorney's hands.

6 Q. But are you aware of it?

7 A. I know we are in the process of
8 obtaining the brand.

9 Q. Do you know if there were any errors
10 in connection with this registration by any
11 chance?

12 A. I don't know.

13 Q. Do you know if this registration is
14 about to be revoked?

15 A. I know our attorneys are handling the
16 situation.

17 Q. Is there somebody at Industria that's
18 not an attorney that's familiar with this
19 registration?

20 A. I don't know.

21 Q. What's the name of the president of
22 Industria?

23 A. Diego Medina.

24 Q. Do you know if he is aware of this
25 registration?

L. Salazar

A. No, I don't know.

Q. How about Santiago Jimenez?

A. I don't know.

Q. Do you know if Industria ever had any direct discussions with Latinfood's business customers regarding sales of Latinfood's products?

MR. RAYMOND: I am sorry.

Could you read that back again?

(Record read.)

A. No.

Q. Did Industria ever have any discussions with any customers regarding their complaints or concerns about Latinfood's products?

A. Yes.

Q. Which customers?

A. Gloria Moreno. There is a chat on a website, it's Juana Solorzano, where they talk about the confusion with US products but they do not mention Latinfoods. It is on Facebook.

Q. Who manages this chat on behalf of Industria?

A. It is not an Industria chat. It is a women's chat on Facebook

Q Do you keep track of this chat?

L. Salazar

A. Not me personally.

Q. Who does?

A. Our advertising agency, they track social media.

Q. And is that D & B?

A. Yes.

Q. DDB?

A. Yes.

MR. RAYMOND: We produced a copy of that for you.

MR. INGBER: A copy of?

MR. RAYMOND: The Facebook chat and the translation as well.

BY MR. INGBER:

Q. Going back to LS B paragraph 7 page 3, Industria is making a claim that Latinfood by and through Mr. Zuluaga has fraudulently registered the Zenu mark in the US.

Are you familiar with this claim?

A. Yes.

Q. So you agree with this?

A. There is a confusion with the packaging of our products and the handling of the brand.

L. Salazar

Q. Can you point to any confusion in the US besides Gloria Moreno?

A. I mentioned Juana Solorzano.

Q. This is the chat reference, is that what you are talking about?

A. Yes.

Q. Where is this -- the people in this chat, are they Columbians who live in America, do you know?

A. They live in different areas.

Q. Do you know if any of them live in the US?

A. The chat references this. The people that live in the United States it is their concern.

Q. But they don't mention Latinfood in their concerns, do they?

A. They mention the brands and the products.

Q. Again, they don't mention Latinfood, do they?

MR. RAYMOND: By name you are asking?

MR. INGBER: By name.

A. No.

L. Salazar

the US use the Zenu or Ranchera marks?

A. I don't know.

Q. Do you know if there has been any surveys conducted by Industria regarding Zenu and Ranchera in the US?

A. No surveys but market analysis, global market analysis.

Q. Do you know if there is any market analysis specific to the United States?

A. No. Just general analysis.

Q. Do you know what Industria's annual sales of Zenu Ranchera products are?

A. In Columbia?

Q. In Columbia.

A. Approximately, eight hundred thousand million for Zenu and three hundred thousand million for Ranchera.

Q. Do you mean eight hundred million for Zenu?

A. Eight hundred thousand million pesos for Zenu and approximately three hundred thousand million pesos for Ranchera.

Q. Do you by any chance know what those numbers are in US dollars?

L. Salazar

A. Approximately, three hundred million for Zenu and a hundred million Ranchera.

Q. Thank you.

MR. RAYMOND: I would just like to make a comment. I believe we produced this information pursuant to the confidentiality agreement in this case and for the moment I would like to deem this entire deposition transcript covered by that until we determine what may or may not need to be retained as confidential.

MR. INGBER: Absolutely.

BY MR. INGBER:

Q. Do you know if there had been -- do you know if sales of Zenu and Ranchera products in Columbia have increased?

MR. RAYMOND: Since when?

MR. INGBER: On a yearly basis.

A. They fluctuate. Some years it increases and others it doesn't.

Q. Do you know if -- has it increased in 2017, to your knowledge?

A. I don't remember the exact numbers.

Q. Do you know if it's increased in the

1 L. Salazar

2 year 2018?

3 A. Not Zenu.

4 Q. Do you agree that Latinfood has no
5 impact on Industria's sales of Ranchera and Zenu
6 in Columbia?

10 A. I don't know.

11 Q. Who would know?

12 A. I don't know.

13 Q. Now I would like you to turn to
14 paragraph 83 of LS B page 24. It says in this
15 paragraph that "Those that engage with the
16 Latinfood sales representatives are led to believe
17 they are buying products from the same source as
18 Industria's products from Columbia."

19 Do you have any knowledge of this, of
20 the accuracy of this statement?

21 A. This relies on Gloria Moreno's report.

22 Q. One person's report demonstrates this
23 to you and proves this; is that correct?

24 A. This is the information that we have.

25 Q. So Gloria Moreno is the source for

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